



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 1 2017

OFFICE OF WATER

The Honorable Brian Schatz
United States Senate
Washington, D.C. 20510

Dear Senator Schatz:

Thank you for your April 3, 2017, letter to U.S. Environmental Protection Agency Administrator Scott Pruitt regarding potential revisions to the 2015 Clean Water Rule. Administrator Pruitt has asked me to respond to you on this important question.

President Trump signed an Executive Order on February 28, 2017, directing EPA and the Department of the Army to begin notice and comment rulemaking for the purpose of revising or rescinding the 2015 Clean Water Rule, as appropriate and consistent with the law. The goal of this rulemaking is to assure a rule is in place defining the scope of the Clean Water Act that is clear, consistent, and effective in protecting the nation's clean water and promoting jobs and a strong economy. Administrator Pruitt has emphasized that Americans should not have to choose between a healthy environment and a strong economy – they deserve both.

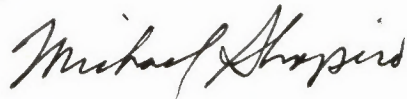
The agencies have begun work on a notice and comment rulemaking to revise the regulatory definition of "waters of the United States" directed by the Executive Order. The Agencies are implementing the Executive Order in two steps to provide certainty to the regulated community and the public while the agencies develop a revised definition of "waters of the United States." First, the agencies plan to establish the legal status quo in the Code of Federal Regulations, by recodifying the regulation that was in place prior to issuance of the Clean Water Rule and that is being implemented now. Second, the agencies plan to propose a new definition that would replace the approach in the 2015 Clean Water Rule, taking into consideration the principles that Justice Scalia outlined in the Rapanos plurality opinion. This Administrative Procedures Act process will assure a transparent public rulemaking consistent with the environmental, public health, and federalism goals of the Clean Water Act. Your letter identifies economic, scientific and public health issues that will be specifically considered by the agencies as the revised rule is developed.

A key part of the rulemaking will include an analysis of potential environmental, economic, and public health implications associated with various alternatives for revising the scope of waters covered under federal CWA programs. Additionally, we are coordinating with state, municipal, and tribal partners to solicit their input on rulemaking options that assure CWA programs continue to provide Americans with effective protection for human health and the environment. For example, the agencies held a listening session with state associations and sent a letter to the nation's governors asking for their suggestions and recommendations as we work to provide

greater certainty, predictability and effectiveness in the implementation of the waters of the United States rule. We will continue to reach out to the public, states, communities, stakeholders, and our federal partners throughout the rulemaking process to assure our environmental, public health, and economic goals are met.

Thank you again for your letter. Please contact us if you have any remaining questions or your staff may call Denis Borum at (202) 564-4836 in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, reading "Michael H. Shapiro". The signature is written in a cursive, flowing style with a large initial "M".

Michael H. Shapiro
Acting Assistant Administrator